THE HONOURABLE SRI JUSTICE A.GOPAL REDDY

W.P.No.20639/2000

Dt.11-7-2007

A.P. State Road Transport Corporation, Musheerabad, Hyderabad, represented by its Managing Director.

..Petitioner

V.

1.State Transport Appellant Tribunal, A.P., Hyderabad, represented by its Presiding Officer and two others.

..Respondents.

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ORAL ORDER

The Andhra Pradesh State Road Transport Corporation, Hyderabad (for short "APSRTC") obtained a rule from this court to show cause why a writ in the nature of Certiorari should not be issued after calling for the records pertaining to the impugned order dt. 2-8-2000 made in AS No.61/99 by the State Transport Appellate Tribunal, A.P., Hyderabad setting aside the order of the second respondent-Regional Transport Authority, East Godavari District at Kakinada and to quash the same.

By the impugned order dt. 2-8-2000, the Tribunal while setting aside the order of the Regional Transport Authority, East Godavari District at Kakinada dt. 23-12-1998 in item No.2 of R.No.28848/A1/98 directed the Regional Transport Authority to grant stage carriage permit to the appellant therein for the town service route applied by him within four months from the date of receipt of a copy of the order on producing the valid documents required under the provisions of the Motor Vehicle Act, 1988 and A.P. Motor Vehicles Rules, 1989.

Through G.O.Ms.No.937 Transport, Roads & Buildings (Tr.V) Department dt. 2-11-1987, the Government having considered the scheme prepared and published by the State Transport Undertaking, approved the scheme under Sec. 68-D(2) of the Motor Vehicles Act,1989, with some exceptions, which run as under:

(1) x x x;

(2) the holders of existing stage carriage permits in respect of town services.

(3) to (5) x x x.

When the third respondent applied for grant of pucca stage carriage

permit to ply on Kakinada now TSR from Suryaraopeta to Muthanagar, via, Vakalapudi light house, ADB Road, Sainagar, Bank colony, Vakalapudi, Suryamahal, Valasapakala, Krishnanagar, RTO Office, Godarigunta junction, 50 buildings junction, Padmapriya junction, RTO Complex, II Town Police Station, J.K.Pur Birdge, Venkateswara Swamy temple, J.Ramaropet, Murtanagar, the second respondent in the light of the orders passed by this court in WP No.27869/98 dt. 7-10-1998 rejected the application holding that the proposed route overlaps a distance of 0.1 KMs on the notified route Machilipatnam to Visakhapatnam approved in G.O.Ms.No.782/72 and conditions of the said scheme strictly prohibit overlapping and overlapping upto 8 KMs is allowed in respect of town service routes and overlapping in this case is 1.2 kms. On the appeal being preferred by the third respondent, the learned State Transport Appellate Tribunal allowed the appeal holding that the alleged overlapping distance of 0.1 Kms on the notified route in G.O.Ms.No.782/72 on J.K.Pur bridge is an inter-section only and not overlapping observed as follows:

> "…the sketch of the proposed route prepared by the Motor Vehicles Inspector is available at page 31. According to which, the total length of the route overlaps 1.4 Kms, out of which 0.1 Kms is on JK pur bridge which alleged overlapping on the notified route in G.O.Ms.No.782/72. So, for the overlapping portion of 1.3 Kms on the notified route in G.O.Ms.No.937/87 is within the permissible limits as the said scheme allows overlapping upto 8 Kms. The total length of the route beyond municipal limits is 5.7 kms, and within municipal limits is 11 Kms. Out of total length of the route 16.7 Kms as noted in the sketch. It is clear from the sketch available at page 31 of the connected file, the alleged overlapping of 0.1 Kms on JK Pur bridge has to be treated as inter-section only and not as overlapping for the reason, immediately after the bridge, the vehicle proceeds towards the allocated route and it is not traversing on the line of the

notified route. …"

In spite of service of notice on the third respondent, he has not chosen to put up his appearance.

Admittedly, as per the scheme issued in G.O.Ms.No.937 dt. 2-11-1987 the holders of existing stage carriage permits in respect of town services alone were saved but that does not mean fresh applicants or future applications are entitled to permits in respect of town services.

In ***AP.SRTC V REGIONAL TRANSPORT AUTHORITY***[1], a five-Judge Bench of Supreme Court while holding that under Exception 2 contained in the note appended to the Scheme, subject-matter of the present appeals, permits can be issued only to existing town services operating on the notified routes, and that means only existing operators on the notified routes are eligible for permits and fresh applicants or future applicants are totally ineligible for getting permits for town services operating on notified routes, allowed the appeals preferred by APSRTC by setting aside the judgment of the Full Bench of this court dt. 15-3-2001 in WP Nos.17729/90 and batch.

In view of the same, the impugned order passed by the State Transport Appellate Tribunal, Hyderabad is not sustainable and the same is accordingly quashed.

The writ petition is accordingly allowed. No costs.

A.GOPAL REDDY,J

Dt.11-7-2007
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[1] (2005) 4 SCC 391